UNITED STATES DISTRICT COURT

DISTRICT OF NEW JERSEY

ANTHONY LAINE	:	
Plaintiff,	:	Civil Action No: 04-6081
	:	
v.	:	Order and Opinion
	:	
MAXIMUS, INC.,	:	
Defendant.	:	

IT APPEARING that the above captioned action has been pending for more than 120 days and Plaintiff has failed to effect service during this time; and

IT FURTHER APPEARING that Plaintiff was put on notice of the defect, failure to obtain and effect service of a summons, when two other of Plaintiff's Complaints against the same Defendants were dismissed for the same failure to satisfy Rule 4(m), see docket numbers 05-16 and 04-3452[1]; and

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[1] "If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified time; provided that if the plaintiff shows good cause for the failure, the court shall extend the time for service for an appropriate period. This subdivision does not apply to service in a foreign country pursuant to subdivision (f) or (j)(1)." Federal Rules of Civil Procedure Rule 4(m). See also Barrett v. City of Allentown, 152 F.R.D. 46 (E.D. Pa. 1993) (dismissal of plaintiffs' complaint on defendants' motion, since filing of amended complaint did not toll 120-day period for service of process following filing of original complaint, and plaintiffs' pro se status did not constitute good cause for failure to serve city within 120 days of filing original complaint after warning from court that action would be dismissed if proper service were not made in timely fashion).

IT FURTHER APPEARING that no summons has issued in this case; and

It is on this 13th day of May 2005,

O R D E R E D that the above captioned action be and is hereby dismissed, *sua sponte*, pursuant to F. R. Civ. P. 4(m), without prejudice and without costs.

_____/s/_____
Stanley R. Chesler
United States District Judge